

REMARKS

Applicant respectfully requests allowance of the subject application.

Claims 28-33 are pending.

In view of the following remarks, Applicant respectfully requests that the rejections be withdrawn and the application be forwarded along to issuance

Interview Summary

Applicant wishes to thank the above referenced Examiner for conducting a telephonic interview with the undersigned attorney on March 9th, 2007.

During the interview, Applicant's attorney and the Examiner discussed a general basis for the rejection, but since the file was recently reassigned to the Examiner, he wished to review the Response. The Examiner agreed to contact the Applicant after review of the response.

If any issues remain that would prevent the examination or allowance of the application, Applicant requests that the Examiner contact the undersigned attorney to resolve the issues.

Claim Rejections

Claims 28, 32 and 33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,791,904 to Herron et al. (hereinafter "Herron") in view of U.S. Patent Publication No. 2004/0024688 to Bi et al (hereinafter "Bi").

Herron is drawn to a method and apparatus to receive selected audio content. The audio playback system includes an audio content server and a device. The audio content server includes audio content to be selected for playback. The device calls the audio content server to request and receive an audio playback of selected audio content at a scheduled time. *See Abstract*. However, in each instance in Herron, control of the device, including selection of the audio content to be played on the device, is performed locally at the device and is not performed remotely. For example, Herron describes the following to select content to be played by the Herron device:

At block 236, the clock-radio device 152 automatically places a new phone call to the audio content server 140, then control passes to block 238. The audio content server 140 is the conduit from which selected audio content is provided to the clock-radio device 152 by an audio content service provider. In one embodiment, the subscriber selects audio content from the audio content server 140 via menu driven interactive voice instructions. For example, upon connecting to audio content server 140, the subscriber listens to a menu of options, such as, update personal information, update billing information, select audio content, set clock-radio settings, among other examples to be described below. Here, the subscriber may choose to update the selected audio content. Then, a choice of audio content is presented for the subscriber to choose from. *See Herron, Col. 3, Line 59 to Col. 4, Line 6.*

The content of Herron, however, is selected by category, which is described in Herron as follows:

At block 236, the clock-radio device 152 automatically places a new phone call to the audio content server 140, then control passes to block 238. The audio content server 140 is the conduit from which selected audio content is provided to the clock-radio device 152 by an audio content service provider.

In one embodiment, the subscriber selects audio content from the audio content server 140 via menu driven interactive voice instructions. For example, upon connecting to audio content server 140, the subscriber listens to a menu of options, such as, update personal information, update billing information, select audio content, set clock-radio settings, among other examples to be described below. Here, the subscriber may choose to update the selected audio content. Then, a choice of audio content is presented for the subscriber to choose from. *See Herron, Col. 3, Line 59 to Col. 4, Line 6.*

The audio content categories to be selected may be broad in scope, such as, political news, financial news, entertainment news etc., or may also be narrow in scope, such as, stock news of a specific company, sports news of a specific team, local traffic and weather, etc. In one embodiment, the subscriber provides commute information, such as street names of a commuter route, such that the subscriber may then receive an audio playback of the traffic conditions for that specific route. *See Herron, Col. 4, Lines 7-15.*

Thus, Herron discloses the selection of categories but not particular items.

Bi describes a digital content distribution and subscription system. The system may optionally provide streaming digital data as well as locally-stored digital files. In one exemplary implementation, subscribers may subscribe to a predetermined number of songs slots for a period of time, for example, about 200-400 song slots per month. The subscriber may then select songs from various playlists which causes encrypted digital audio files for the selected music to be downloaded to the subscriber's PC. Although Bi describes that the "server manages the number client access devices, such as personal computers (PC), which can access the digital content over a predetermined time period" Bi

does not teach or suggest user interaction with a remote computer to form an audio file playlist that is streamed to another device, such as a clock radio.

Claim 28 recites a clock radio comprising:

- an electronic time base to keep time;
- a display device to display the time;
- a control panel configured to receive local instructions, including local time set instructions and local alarm set instructions;
- a communication interface configured to receive remote instructions, including remote time set instructions, remote alarm set instructions, and a remote audio data stream from a network device, wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device to form the audio file playlist; and
- a control module configured to set the time, to set an alarm, and to render the remote audio data stream in accordance with the local instructions and the remote instructions.

It is respectfully submitted that none of the asserted references, alone or in combination, teach or suggest these aspects.

The Office correctly asserts that “Herron does not teach wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device to form the audio file playlist.” *See Office Action, Page 3.* To correct this defect, the Office asserts the following portions of Bi:

[0006] In order to provide users more capability to select music over the Internet, a number of websites have been developed which provide users the capability to select among various stored digital music files. One example of such a website is the Napster website. The Napster website allowed users to download digital music files from other users that

were logged onto the Napster website at the time the request is made. The Napster website did not locally store digital audio files, but merely allowed searches of other user's computers logged onto Napster which matched the requested song. Unfortunately, the quality of the digital audio files varied. Also, digital audio files were only available when other users are logged onto the Napster website. In addition, the Napster model was adjudged to involve illegal copying of copyrighted music works. Thus, there is a need to provide a system for providing digital audio files with a consistent quality without violating copyright laws. *See Bi, Paragraph [0006]*.

[0007] The present invention relates to a digital content distribution and subscription system for digital data files, such as digital audio and video data files, which provides subscribers, for example, with music or video from locally-stored digital files or on demand for a fee. The system may optionally provide streaming digital data as well as locally-stored digital files. After registration onto the system, a subscriber may select from a relatively wide variety of available digital content, for example, music content ripped from a high-quality digital source to provide relatively consistent digital quality to subscribers. In one exemplary implementation, subscribers may subscribe to a predetermined number of songs slots for a period of time, for example, about 200-400 song slots per month. The subscriber may then select songs from various playlists which causes encrypted digital audio files for the selected music to be downloaded to the subscribers's [sic] PC. A license key is downloaded to the subscribers' PC to "unlock" the selected songs to enable them to be decoded and played on the subscriber's personal computer or remote audio equipment for a predetermined time period. At the expiration of the predetermined time period, the license key expires, thereby preventing further playback of the encrypted audio data files. The selections of each subscriber are tabulated for the purpose of royalty [sic] tracking and payment of an appropriate license fee to the holders of copyright rights for the selections. The system may also be used to provide additional digital information, such as special events which may be live or pre-recorded. The digital content distribution and subscription system includes a digital content

management system, a system for token-based authentication allowing secure data retrieval and a royalty [sic] administration system. *See Bi, Paragraph [0007]*.

As shown in the above referenced portions, however, the subscriber interacts with a PC to cause selected songs to be downloaded to that PC. *See Bi, Paragraph [0007]*. This reading is supported throughout the figures and drawings of Bi. *See Bi, FIGS. 3, 4 and 6, Paragraphs [0076]-[0077]*. Accordingly, it is respectfully submitted that a *prima facie* case of obviousness has not been established and withdrawal of the rejection is respectfully requested.

Claims 29-31 were rejected under 35 U.S.C. §103(a) as being unpatentable over Herron in view of Bi in view of U.S. Publication No. 2005/0112936 A9 to Janik et al (hereinafter Janik).

As previously described, neither Herron nor Bi teach or suggest “an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device to form the audio file playlist” as described in Claim 28. Janik does not correct this defect. Further, Claims 29-33 depend either directly or indirectly from Claim 28 and are allowable as depending from an allowable base claim. Each of the dependent claims is allowable based on the same rationale discussed with respect to Claim 28. These claims are also allowable for their own recited features which, in combination with those recited in claim 28, are neither shown nor suggested in the references of record, either singly or in combination with one another.

Conclusion

All of the claims are in condition for allowance. Accordingly, Applicant requests a Notice of Allowability be issued forthwith. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

Respectfully Submitted,

Dated: March 9th, 2007

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